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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/488,181	01/20/2000	Wassim A. Matragi	6-3	4051
7590	12/29/2004		EXAMINER	
Ryan & Mason LLP Suite 205 1300 Post Road Fairfield, CT 06824			ABELSON, RONALD B	
			ART UNIT	PAPER NUMBER
			2666	

DATE MAILED: 12/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Applicant No.	Applicant(s)
	09/488,181	MATRAGI ET AL.
	Examiner	Art Unit
	Ronald Abelson	2666

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 09 September 2004.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-24 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-4,6-9,12-16,18-21 and 24 is/are rejected.

7) Claim(s) 5,10,11,17,22 and 23 is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 20 January 2000 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

- Certified copies of the priority documents have been received.
- Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
- Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.

5) Notice of Informal Patent Application (PTO-152)  
6) Other: \_\_\_\_\_.

**Claim Rejections - 35 USC § 103**

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1-4, 6-9, 12-16, 18-21, and 24 rejected under 35 U.S.C. 103(a) as being unpatentable over McAllister (US 6,215,765) in view of Kunimoto (US 6,396,808).

Regarding claims 1, 8, 13, and 20, McAllister teaches a method and apparatus for an overload control method (failure, congestion: col. 2 lines 62-65, crankback: col. 3 lines 25-27) for use in a network employing distributed call processing.

The system receives a call set up request from an end terminal (col. 3 lines 5-7).

The system determines if sufficient resources exist to process the call set up request (col. 3 lines 7-9).

The system identifies an alternate call processor to process the call set up request using a list of call processors if sufficient resources do not exist (col. 3 lines 32-37).

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The system forwards the call set up request to the identified alternate call processor (col. 3 lines 32-37).

Regarding claims 13 and 20, in addition to the limitations previously listed 1, a memory (fig. 2 box 106, col. 9 lines 41-43) for storing computer readable code and a processor (fig. 2 box 105, col. 9 lines 41-48).

Regarding claims 8 and 20, in addition to the limitations previously listed, setting a flag associated with the congested call processor indicating that the congested call processor is congested. The examiner corresponds the applicant's setting a flag with the updating of the routing list due to call processor congestion as previous discussed.

Although McAllister teaches determining if sufficient resources exist to process the call set up request, the reference is silent on determining if sufficient resources exist in a call processor to process the call set up request.

Kunimoto teaches determining if sufficient resources exist in a call processor to process the call set up request (fig. 24 box 40A: col. 23 line 66 - col. 24 line 1).

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Although McAllister teaches identifying an alternate call processor to process the call set up request using a list of call processors if sufficient resources do not exist, the reference is silent on the list of call processors includes a congestion status of one or more call processors.

Kunimoto teaches receiving information on the congestion status of one or more call processors (fig. 24 box 40A: col. 23 line 66 - col. 24 line 6).

Although McAllister teaches forwarding the call set up request to the identified alternate call processor, the reference is silent on forwarding the call set up request to the identified alternate call processor with an identifier of said congested call processor, whereby said forwarded call set up request indicates to said alternate call processor that said congested call processor is congested.

Kunimoto teaches forwarding the call set up request to the identified alternate call processor with an identifier of said congested call processor, whereby said forwarded call set up request indicates to said alternate call processor that said congested call processor is congested (fig. 24 box 40A:

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informing 2B of the overload state processor 40A, col. 23 line 66 - col. 24 line 6).

Therefore it would have been obvious to one of ordinary skill in the art, to modify the system of McAllister according to the teachings of Kuniimoto. As shown by Kuniimoto, each node of McAllister would monitor the congestion status of its call processor (Kuniimoto: fig. 24 box 40A 105A: col. 23 line 66 - col. 24 line 6). As shown above, McAllister teaches crankback in response to a setup request. If a congested node receives a setup request, it would crankback a signal to the sending node of the setup request informing the sending node that the node is congested. The sending node would then be able to update its routing list of the status of the congested node. The sending node would then pass the status of the congested node to the alternate node so that the alternate node would be able to update its routing table. This modification can be performed in software. This would improve the system since setup requests would not be sent to congested nodes once the system is aware that a node is congested.

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Regarding claims 2 and 14, the call processor that previously received a forwarded call set up request within a predefined interval is not selected as the alternate call processor during the identifying step (McAllister: col. 3 lines 34-37).

Regarding claims 3 and 15, the identifying step further comprises the step of evaluating a congestion indicator flag associated with each potential alternate call processor (McAllister: col. 3 lines 39-41). Note, all possible routes on the list are examined before "cranking back" one more hop. Regarding the limitation the congestion indicator flag is set if a congestion message is received from the corresponding alternate call processor. The examiner corresponds the applicant's setting a flag with the updating of the routing list due to call processor congestion as previous discussed.

Regarding claims 4 and 16, setting a flag indicating that the selected alternate call processor received the forwarded call set up request (McAllister: record of the Route and Route List, col. 3 lines 32-37).

Regarding claims 6 and 18, evaluating a total congestion indicator flag indicating whether all potential alternate call processors are congested (McAllister: no other routes to choose from the list, the call is cranked back, col. 3 lines 39-41).

Regarding claims 7 and 19, the list of call processors is an ordered list (McAllister: next available route, col. 3 lines 36-37).

Regarding claim 9 and 21, the system determines if sufficient resources exist to process the forwarded call set up request (McAllister: col. 3 lines 7-9).

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Regarding claims 12 and 24, the system receives a call set up request from an end terminal (McAllister: col. 3 lines 5-7), determines if sufficient resources exist to process the call set up request (McAllister: col. 3 lines 7-9), identifies an alternate call processor to process the call set up request using (McAllister: col. 3 lines 25-27) using the flag associated with each potential alternate call processor (McAllister: record of the Route and Route List, col. 3 lines 32-37).

***Allowable Subject Matter***

3. Claims 5, 10, 11, 17, 22 and 23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Regarding claims 5, 17, and 23, nothing in the prior art of the record teaches or fairly suggests the flag indicating the alternate call processor automatically expires after a predefined period in view of the prior art teachings of the combination of McAllister and Kunimoto, in combination with all the other limitations listed in the claim. In contrast,

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McAllister neither teaches nor suggests returning from the alternate call processor.

Regarding claims 10 and 22, nothing in the prior art of the record teaches or fairly suggests setting a timer associated with the flag in view of the prior art teachings of the combination of McAllister and Kunimoto, in combination with all the other limitations listed in the claim. In contrast, McAllister neither teaches nor suggests returning from the alternate call processor.

***Response to Arguments***

4. The examiner accepts the applicant's modification to the abstract and the 112 2<sup>nd</sup> paragraph issues of the last office action (applicant: pg. 8 & 9).

5. Applicant's arguments with respect to amended independent claims 1, 8, 13, and 20 have been considered but are moot in view of the new ground(s) of rejection. The examiner maintains

that all new limitations have been addressed in the office action.

**Conclusion**

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ronald

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Abelson whose telephone number is (571) 272-3165. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema Rao can be reached on (571) 272-3174. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*ra*

Ronald Abelson  
Examiner  
Art Unit 2666

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12/21/04